

**Effective 5/13/2014**

**61-2g-304.5 Background checks.**

- (1) An individual applying for licensure, certification, or registration under this chapter shall:
  - (a) submit, with the individual's application, a fingerprint card in a form acceptable to the division; and
  - (b) consent to a criminal background check by:
    - (i) the Utah Bureau of Criminal Identification; and
    - (ii) the Federal Bureau of Investigation.
- (2) The division shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for each applicant through the national criminal history system or any system that succeeds the national criminal history system.
- (3) The applicant shall pay the cost of:
  - (a) the fingerprint card described in Subsection (1)(a); and
  - (b) a criminal background check.
- (4)
  - (a) A license, certification, or registration issued under this chapter is conditional pending completion of a criminal background check.
  - (b) A license, certification, or registration issued under this chapter is immediately and automatically revoked if a criminal background check reveals that the applicant failed to accurately disclose a criminal history that:
    - (i) relates to the appraisal industry; or
    - (ii) includes a felony conviction based on fraud, misrepresentation, or deceit.
  - (c) If a criminal background check reveals that an applicant failed to accurately disclose a criminal history other than a type described in Subsection (4)(b), the division shall review the application and, in accordance with rules made by the division pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:
    - (i) place one or more conditions on the license, certification, or registration;
    - (ii) place one or more restrictions on the license, certification, or registration;
    - (iii) revoke the license, certification, or registration; or
    - (iv) refer the application to the board for a decision.
  - (d) An individual whose conditional license, certification, or registration is automatically revoked under Subsection (4)(b) or whose license, certification, or registration is conditioned, restricted, or revoked under Subsection (4)(c) may appeal the action in a hearing conducted by the board in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
  - (e) The board may delegate to the division or an administrative law judge the authority to conduct a hearing described in Subsection (4)(d).
  - (f) The board, the division, or an administrative law judge may reverse an automatic revocation under Subsection (4)(b) only if:
    - (i) the criminal history upon which the revocation was based did not occur or is the criminal history of another individual;
    - (ii) at the time the applicant disclosed the applicant's criminal history, the applicant had a reasonable good faith belief that there was no criminal history to be disclosed; or
    - (iii) the division failed to follow the prescribed procedure for the revocation.
- (5)
  - (a) If an individual's conditional license, certification, or registration is revoked under Subsection (4) and the individual does not appeal the revocation in accordance with Subsection (4)(d), the individual may not apply for a new certification, license, or registration under this chapter

for a period of 12 months after the day on which the conditional license, certification, or registration is revoked.

- (b) If an individual's conditional license, certification, or registration is revoked, the individual appeals that revocation in accordance with Subsection (4)(d), and the revocation is upheld, the individual may not apply for a new license, certification, or registration under this chapter for a period of 12 months after the day on which the decision from the appeal is issued.
- (6) The board may delegate to the division the authority to make a decision on whether relief from a revocation should be granted.
- (7) Money an applicant pays for the cost of the criminal background check is nonlapsing.

Enacted by Chapter 350, 2014 General Session